

CORPORATE AND CUSTOMER SERVICES

Director: Mrs. J.E. Jones

TO: ALL MEMBERS OF THE COUNCIL

Your Ref:

Our Ref: AMcL/SAHC

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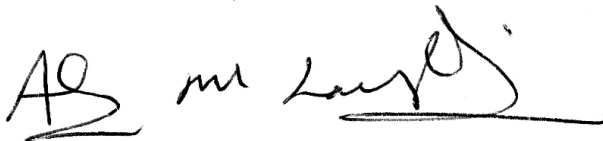
Dear Councillor,

YOU ARE HEREBY SUMMONED to attend an extraordinary meeting of the County of Herefordshire District Council to be held on **Friday, 23rd November, 2007** at The Council Chamber, Brockington, 35 Hafod Road, Hereford. at 10.30 a.m. at which the business set out in the attached agenda is proposed to be transacted.

Members have had the opportunity of collecting the two reports of Mr Crookall. The first report, part one, is the public report of the Independent Review and which is open to the press and public. The second report, part two, is the confidential report and as such is not open to the press or public. Please ensure that you bring your papers with you to the meeting.

I must impress on all Members not to share any information regarding the Exempt Report. As I am sure you are aware there are sensitive issues for past and present officers. The reports if inappropriately disclosed will place the Council and individuals at risk of claims and I am sure you would want to avoid that. For those Members who have not collected their confidential reports they are still available for collection, or alternatively will be available at the meeting.

Yours sincerely



A. McLAUGHLIN
HEAD OF LEGAL AND DEMOCRATIC SERVICES



A G E N D A

EXTRAORDINARY COUNCIL

Date: **Friday, 23rd November, 2007**

Time: **10.30 a.m.**

Place: **The Council Chamber, Brockington, 35
Hafod Road, Hereford.**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

Sally Cole, Committee Manager Executive.

**Tel: 01432 260249, E-mail
scole@herefordshire.gov.uk**

**County of Herefordshire
District Council**

AGENDA

for the Extraordinary Meeting of the COUNCIL

To: All Members of the Council

Pages

1. PRAYERS

2. APOLOGIES FOR ABSENCE

To receive apologies for absence.

3. DECLARATIONS OF INTEREST

To receive any declarations of interest by Members in respect of items on this Agenda.

4. CHAIRMAN'S ANNOUNCEMENTS

To receive the Chairman's announcements and petitions from members of the public.

5. INDEPENDENT REVIEW OF ICT AND THE COUNCIL'S FINANCIAL AND CONTRACTUAL ARRANGEMENTS

1 - 48

To outline the content of the Independent Review into ICT Services carried out by Mr Ian Crookall, who was nominated by the Chief Executive of the Local Government Association, and the proposed actions in response to the recommendations made.

6. CABINET

To receive the report and to consider the recommendations to Council, which relate only to the Independent Review of ICT, arising from the meeting held on 15th November, 2007. (*Report to follow*).

7. AUDIT AND CORPORATE GOVERNANCE COMMITTEE

To receive the report and to consider any recommendations to Council, which relate only to the Independent Review of ICT, arising from the meeting held on 16th November, 2007. (*Report to follow*).

EXCLUSION OF THE PUBLIC AND PRESS

In the opinion of the Proper Officer, the following items will not be, or are likely not to be, open to the public and press at the time they considered.

RECOMMENDATION:

That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below

**8. SUPPLEMENTARY REPORT OF THE INDEPENDENT REVIEW OF
FINANCIAL GOVERNANCE IN ICT AND CUSTOMER SERVICES**

49 - 50

To outline the content of the Supplementary Report of the Independent Review into ICT Services carried out by Mr Ian Crookall.

This item discloses information, which is likely to reveal the identity of an individual.

9. CONFIDENTIAL CABINET

To receive the report and to consider the recommendations to Council, which relate only to the Independent Review of ICT, arising from the meeting held on 15th November, 2007. *(Report to follow)*.

This item discloses information, which is likely to reveal the identity of an individual.

10. CONFIDENTIAL AUDIT AND CORPORATE GOVERNANCE

To receive the report and to consider the recommendations to Council, which relate only to the Independent Review of ICT, arising from the meeting held on 16th November, 2007. *(Report to follow)*.

This item discloses information, which is likely to reveal the identity of an individual.

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- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
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- The nearest bus stop to Brockington is located in Old Eign Hill near to its junction with Hafod Road. The return journey can be made from the same bus stop.

If you have any questions about this agenda, how the Council works or would like more information or wish to exercise your rights to access the information described above, you may do so either by telephoning the officer named on the front cover of this agenda or by visiting in person during office hours (8.45 a.m. - 5.00 p.m. Monday - Thursday and 8.45 a.m. - 4.45 p.m. Friday) at the Council Offices, Brockington, 35 Hafod Road, Hereford.



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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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INDEPENDENT REVIEW OF ICT AND THE COUNCIL'S FINANCIAL AND CONTRACTUAL ARRANGEMENTS

Report By: Head of Legal and Democratic Services

Wards Affected

County-wide.

Purpose

To outline the content of the Independent Review into ICT Services carried out by Mr Ian Crookall, who was nominated by the Chief Executive of the Local Government Association, and the proposed actions in response to the recommendations made.

Financial Implications

The full cost of the independent review is likely to be in the region of £10,000.00

There will be ongoing costs in respect of the recommendations from the report in commissioning further work from other providers and additional reports from officers as set out in the action plan at Appendix 2.

Considerations

1. The Cabinet at its meeting of the 20th September 2007 received the Special Investigation Report dated 20th September 2007 from the Director of Resources in respect of the Financial Governance in ICT and Customer Services. The Cabinet resolved to commission an independent review to be carried out by a person nominated by the Local Government Association and for the Head of Legal and Democratic Services to agree the Terms of Reference together with the Leader of the Council.
2. Mr Ian Crookall, previously Chief Executive of Buckinghamshire County Council, was nominated by the Local Government Association and he agreed his Terms of Reference with the Head of Legal and Democratic Services. These were finalised on the 15th October 2007 with the Leader of the Council and the Chair of Audit and Corporate Governance Committee.
3. The Terms of Reference allowed for Mr Crookall to review and request any additional support to carry out the independent review. Mr Crookall was supported during part of the review by a former Section 151 Officer in relation to some aspects of the review as well as officers of the Council.
4. The Report is attached at Appendix 1.
5. The reports from the Cabinet meeting of 15th November and Audit & Corporate Governance Committee of 16th November appear elsewhere on the Council agenda.

Risk Management

There are legal and probity risks for the Council in not endorsing the recommendations of the review report. If the Council does not have robust and workable processes in place to support officers and Members then future contractual arrangements will be called into doubt and may be subject to legal challenge.

RECOMMENDATION

THAT the Independent Review report be accepted and the recommendations endorsed.

Appendices

Appendix 1 Independent review report of Mr Ian Crookall dated 9th November 2007.

Appendix 2 Action Plan responding to the recommendations set out in the review report.

BACKGROUND PAPERS

- None identified.

**INDEPENDENT REVIEW OF
HEREFORDSHIRE COUNCIL'S ICT FINANCIAL AND
CONTRACTUAL GOVERNANCE ARRANGEMENTS**

Ian Crookall

9th November 2007

Preface

This report attempts to give an overview of events which have taken place from 2003 to date as the Council has updated its Information and Communication Technology (ICT). The areas I have been asked to cover are extensive;

1. The events cover a period of some 4 years.
2. Specialist areas such as technological procurement and the financing of major projects have been considered.
3. This report gives a broad overview describing and placing important events in context focussing on key issues but not neglecting important detail.
4. Where appropriate individual behaviour and conduct has been assessed and evaluated.

I have been working to a tight timescale to deliver an early report.

In particular, I have acted both as an external reviewer and through the eyes of someone with considerable experience in and knowledge of local government management and culture. I have attempted to ignore the benefits of hindsight and concentrated on viewing events as they were at the time through the experience of those involved.

I have not attempted to re-write or repeat previous reports. I have drawn on them and the notes which have been taken of my interviews with those closely involved. I have presented events and data in a slightly different way to try to make events clearer for those who read this report and undertaken some further research and analysis to understand some complex issues

My report is in four parts. The first part sets the scene and describes the events which have taken place. The second section addresses directly and specifically each of the issues which I have been asked to consider. The third section contains some suggestions as to the way forward for the Council, and the final section is an executive summary with a schedule which summarises my conclusions.

This report addresses disciplinary and personnel issues which are exempt business. I have addressed these issues, but I have included them in a supplementary report to preserve confidentiality in view of the Council's duty of care to past and present employees, and to protect the Council's legal position.

I am indebted to all those whom I have interviewed for their co-operation in what for them has been a very difficult time. I am also grateful and wish to place on record my appreciation to many officers of the Council who have sought out papers for me and who have assisted me to understand the issues.

I hope that the report will provide the means whereby Herefordshire Council can resolve issues of accountability and responsibility and be able to move the Council forward in the knowledge that the recommendations I make will provide a realistic foundation on which to avoid future difficulties of this nature.

I have been greatly assisted by the advice of Mr Martin Shefferd, a former Section 151 Officer, in respect of financial best practice. Needless to say the responsibility for the analysis and opinions set out in this report are mine.

Part 1 - Introduction, Context and History of Events

1. The issues which I have been asked to consider relate to a period of nearly four years. They relate to contractual, managerial and financial matters so I think it is helpful to give a brief overview of events.

2. In 2002/3 the Council recognised that its Information and Communications (ICT) infrastructure required significant improvement. There was a wide range of issues which caused concern and they can be summarised as follows:
 - a) Poor service delivery to the departments of the Council
 - b) Separate IT networks and sections within the Council
 - c) Poor security and back up arrangements with a high level of risk
 - d) A period of interim management and temporary contracts
 - e) Skills shortages amongst ICT staff
 - f) Low morale amongst staff
 - g) A lack of vision as to future role of ICT in delivering improved services
 - h) High cost of service when benchmarked with a view to making financial savings

3. In August 2003, following a recruitment process involving external consultants, a Head of ICT (later designated Head of Information, Technology and Customer Services) was appointed, accountable managerially to the Director of Policy & Community (now Director of Corporate & Customer services). The new appointee's experience had been with ICT companies and she had no previous experience in Local Government.

4. The Head of ICT embarked on a programme of change. The ICT management team was revamped, clients were more effectively engaged, programmes of training and staff development focussed on the ICT business needs were introduced, and disaster recovery and security of data were improved.

5. As part of this process, the ICT unit entered into eleven major contracts with external ICT suppliers and many individual contractors, some on a long-term

basis, were employed to implement new systems. The issues with which this report is concerned relate primarily to two major contracts which are:

- a) The contract for a back office system (BOP) for the ICT department at an approved cost of £464k
- b) A Council wide contract for a voice and data network system at an evaluated cost of £5.94 million known as the Community Network Upgrade (CNU).

FINANCIAL AND CONTRACTUAL ARRANGEMENTS

6. It may be helpful to set out briefly the main rules which the Council has adopted when entering into contractual commitments with financial consequences. It is the responsibility of Directors to operate within the approved budget and inform the Director of Resources if there are likely to be significant changes impacting on the Council's finances. In particular, any report for a capital project shall contain specific details about its cost and impact. All projects in excess of £250K must be reported to and approved by the relevant Cabinet Member and projects in excess of £500K must be approved by Cabinet.
7. The process for awarding contracts has two objectives, namely:
 - (a) to secure the best possible value for money; and
 - (b) to show that the procurement is demonstrably free from impropriety.
8. Each Director is authorised and required to manage their Directorate's contracting arrangements. The approved Contracting Code of Practice envisages a Tender Invitation Panel to conduct the tendering exercise; a Tender Opening Panel whose purpose is self-explanatory; and a Tender Evaluation Panel to bring appropriate expertise and experience to bear in deciding which tender to accept. The Code deals with such matters as not accepting the lowest tenderer and the need to maintain records, which is the responsibility of the Contracts Monitoring Officer in each Directorate. The Council aims to use a specific methodology (PRINCE 2) for managing projects.

9. The Code of Practice also provides for the appointment of a corporate Contracts Panel, on which each Directorate is represented and which is expected to report annually to the Directors on the operation of the Code of Practice and maintain a procedures exception register in which variations from the Code are reported. These requirements, supplemented by any further guidance, provide the framework for letting contracts.

THE BACK OFFICE PROJECT (BOP)

10. The Head of ICT proposed the acquisition of a system which would improve the management of the division. The project was designed to focus on better performance information such as the speed of response to Help Desk queries, improved knowledge of ICT assets like desktops, better procurement of goods, managing employee issues such as training, and being the Division's financial information system. This is known as the Back Office Project (BOP).
11. The project started in summer 2004. An external evaluator was appointed; a project definition and business case was prepared which envisaged expenditure of £500K to be funded by ICT Service efficiencies; an invitation to tender and statutory advertisements were issued; the Information Policy Group, (responsible for assessing and evaluating ICT proposals), was informed and agreed the proposal, although with some concerns; two compliant tenders were received; the Head of ICT registered previous employment with both potential contractors; and a process of assessment scoring and evaluation took place.
12. On 23rd December 2004, in a memorandum to the Cabinet Member for Human Resources and Corporate Support Services (now Cabinet Member, Corporate & Customer Services and Human Resources), the Chief Executive and the Director of Policy & Community recommended that a contract be awarded at a cost of £464K over five years. The Head of ICT referred to the fact that the system could displace existing Council-wide systems over time. She also repeated her earlier statement that she had been previously employed by the preferred contractor.

13. The Cabinet Member, following a discussion with the Director, approved the proposal and the contract was signed immediately. The system was due to begin implementation in 2005 and it appeared from contemporaneous reports that the project in ICT was likely to be used as a pilot with a view to assessing whether the extended use of the system could be applied more widely within the Council.
14. The system was reported as being successfully implemented in August 2005 with specific examples of improved performance being identified. A project report in December 2005 set out the areas of achievement and issues still to be addressed, identifying the cost at £860K plus hardware costs.
15. The BOP system managed the ICT Division's financial information and it was a critical requirement that there should be successful integration with the Council's main financial system managed by the then County Treasurer. The Audit Services Manager assessed the interface between the two systems in July 2005 and advised that the specifications and procedures were available to transfer data and recommended a number of steps to make sure that this was done.
16. There have been ongoing problems in seeking to ensure the compatibility of the two financial systems. These have been the issues:
 - a) In October 2006 the Audit Services Manager reported that the BOP system was considered unsatisfactory because no budgets had been set, payment control was inadequate and the reconciliation between the central system and the BOP was poor.
 - b) Considerable resources, both in terms of external consultancy advice and from the accountancy staff within the Resources Directorate have been focused on achieving compatibility and accuracy for the two systems.
 - c) There is no accurate information of the exact cost involved in implementation but it is substantially more than the initial reported cost of the system (£464k).

17. However in August 2007 the interface is considered to be generally satisfactory, although a fresh assessment is planned.

THE AWARD OF THE CONTRACT FOR THE COMMUNITY NETWORK UPGRADE (CNU)

18. The Council recognised in 2003 that significant investment in its ICT infrastructure was needed. The aim was to upgrade the corporate electronic voice and data network, reduce risk by providing better business continuity and disaster recovery and improve corporate document management. These steps were designed to underpin better access to services by users, leading to improved customer satisfaction. A total cost of £7.65M over four years was identified and the Council made initial provisions in its budget for 2004/5.

19. The contracting process was commenced in the summer/autumn 2004 with a project team being established, led by Head of ICT. Legal and audit representatives were involved. A specialist ICT external evaluator was appointed to provide advice on procurement. Statutory notices were issued; expressions of interest were invited; a shortlist from which tenders were invited was created and an evaluation took place. Following discussions with the external evaluator and internal audit, three tenderers went forward for final evaluation. There was a detailed evaluation exercise scoring all three tenders and a contractor was recommended as the preferred contractor for further negotiation by both the internal evaluation team and by the external evaluator at an evaluated cost of £5.94M. The external evaluator expressed concerns about the clarity of the Council's intentions and this is referred to in more detail in the next section of this report.

20. A report was made to the then Chief Executive's Management Team on the 1st March 2005, with a schedule of funding requirements, a presentation was made to the Leader's Briefing on 3rd March 2005 and further financial data was presented to the County Treasurer on the 13th March 2005 by the Head of ICT. Two reports were approved at the Cabinet Meeting on the 24th March 2005, one seeking approval to the proposed direction for the new network and

the second by the County Treasurer seeking approval to a further £500K being provided for the ICT network. The contract was signed on 31st March 2005.

21. The project was started and a report in August 2005 reported that there had been:

- a) Significant planning.
- b) A challenging programme of change with clearly defined targets.
- c) Implementation was supported by the experience of the contractor.
- d) The system was substantially implemented.

22. However, one of the features of both the BOP and CNU projects is that there have been substantial costs incurred for consultancy advice and assistance. In some cases this has been by engaging individual contractors on long-term placements into the ICT division. They have been regarded as the equivalent to employees but are not on the payroll of the Council; they are remunerated as contractors. Some of the costs have been substantial and there are personnel issues arising from this form of engagement. Many of the costs of these contractors have not been allocated specifically to the implementation of either of the two main contracts so it has proved difficult to assess the cost of implementation of each contract. There is a current audit report in preparation on the use of contractors in these circumstances and the process by which they are engaged.

THE SCRUTINY OF ICT SERVICES

23. The Strategic Monitoring Committee commissioned a scrutiny review of ICT services. A wide range of staff, service users and external representatives were interviewed to contribute to this review. The Committee reported in November 2006. The Committee reported favourably on the network strategy and progress that had been made in reducing security incidents. The Council was pursuing ISO standards, disaster recovery had improved, staff were knowledgeable and competent and improvement in performance was occurring. In particular, benchmark data commissioned from independent consultants suggested value for money was being obtained. There were

however causes of concern about services to schools, the clarity of the costs and the level of service which ICT provided to other Directorates.

24. The financial data supporting the review demonstrated the considerable investment which had been made in ICT. Between 2004/5 and 2005/6 capital expenditure had increased from £10.79M to £13.45M and the expenditure on the ICT trading account had increased from £4.85M to £6.75M. This latter increase in expenditure may have been a contributory factor to the £849K deficit on the trading account.

THE HEAD OF INFORMATION, TECHNOLOGY & CUSTOMER SERVICES (ITCS)

25. The Head of ITCS was employed from the 26th August 2003 until the 31st July 2007. She was appointed following a recruitment exercise undertaken by an external recruitment consultant. The Head of ICT had considerable private sector experience in implementing ICT systems. She reported to the Director of Policy & Community.

26. The Head of ITCS led the process of addressing the Council's ICT weaknesses. She led the contracting processes in relation to both the BOP and CNU projects.

27. In June 2006, the Chief Executive decided to second the Head of ITCS into the role of Change Manager in relation to the Herefordshire Connects Programme. The Chief Executive set out the purpose of this secondment in a letter to the Head of ITCS in which he highlighted the purpose of and approach to be taken to developing the change management initiative. He copied that letter to the Director of Corporate & Customer Services indicating that the latter would continue to have managerial responsibility, although some aspects of the reporting lines were acknowledged to be ambiguous.

28. Shortly after the start of the secondment, as a result of external advice, the Chief Executive decided to remove her from the role of Change Manager,

reverting to her former role of Head of ITCS. I set out more details of this in the confidential section of my report.

THE SPECIAL REPORT BY THE DIRECTOR OF RESOURCES (SECTION 151 OFFICER)

29. The Cabinet received a special report by the Director of Resources in her capacity as Section 151 Officer on the 20th September 2007 in relation to financial governance issues in ICT and Customer Services which had given cause for concern for some time. The Section 151 Officer has specific responsibility to provide for the proper financial administration of the Council and has been given extensive powers by the Council to obtain documents and to investigate issues of concern.

30. The concerns can be summarised as follows:

- (a) the difficulty encountered in transferring a service based accountant within the ICT Division to the Resources Directorate in line with a senior management decision
- (b) an overspend on the ICT trading account for the year 2005/6 of £849K
- (c) the difficulty in establishing a correct financial position for the ICT Division for the year 2005/6
- (d) payments which had been treated as capital items which were revenue expenditure, necessitating adjustments to the Council's accounts before they could be approved by the external auditor
- (e) concerns about the BOP system and the use being made of external contractors where documentary evidence of compliance with Council procedures was missing or proving difficult to obtain
- (f) concerns about how the advice from the external evaluator had been applied in the CN contract evaluation.

31. The Director of Resources drew attention to the implications for the Council; it was likely to affect the Audit Commission's view about the Council's use of resources and had implications for the reputation of the Council. An Action

Plan attached to the report has been agreed by both the Corporate Management Board and the Cabinet.

32. The brief which has been given to me is set out in the Terms of Reference at Appendix A which were finalised by the Council's Monitoring Officer in consultation with me. I have taken the advice of the Monitoring Officer on the manner in which this report is presented, to take account of legal issues which may affect the council or individuals. In normal circumstances the Chief Executive would report on these matters directly to the Council. However, in view of the fact that these matters relate to the Corporate & Customer Services Directorate, of which his wife is the Director, the Chief Executive and the Leader considered that it was appropriate for an externally appointed person to provide advice to the Council. I was requested by the Chief Executive of the Local Government Association to undertake that role and the next section of my report sets out my findings and advice in relation to the matters which I have been asked to consider.

Part 2 Response to each Term of Reference of the Review

33. In this section of the report, I propose to address each of the Terms of Reference. Before doing so, it may be helpful to understand what happened if I describe some features of how the Council appears to work and which are significant in the events which have occurred. These features are:

- a) **Culture and Values** – Members and officers placed trust in each other and had confidence in what was being done – it led to a consensual style of working which limits the degree of challenge.
- b) **Procedures and Protocols** – The Council has an impressive range of procedures which are not followed by everyone, partly because they are not easily accessible or understandable. There appears to be little or no sanction for those who do not comply. This is reflected by the approach to performance management.
- c) **Organisation** – A high level of freedom and responsibility is given to Directors and this is reflected in central/corporate services being devolved and reactive rather than influential and pro-active, especially when issues which presented risks to the Council are concerned.
- d) **Communication** – These events have demonstrated that robust and open debate about important issues has not occurred leading to inappropriate channels of communication being adopted.

34. These factors can lead to a situation where poor performance in not following accepted standards was permitted because individual officers who may have had reservations did not challenge colleagues. These observations may help to create an understanding of some of the events which have occurred.

35. I propose to deal with each Term of Reference in turn.

36.(i) To examine the evidential base on which the conclusions set out in the Section 151 Officer's report are based to enable the Council to reach a conclusion as to what, if any, further action needs to be taken in relation to the report beyond the remedial steps contained in the reports

themselves, which steps have been endorsed by the Corporate Management Board and set out any additional remedial action, if any, or additional recommendations for consideration by the Corporate Management Board and/or the Cabinet.

37. I have examined the evidence on which the Section 151 Officer's report was based and there is clear and sufficient evidence to indicate significant problems in the financial and contractual management within ICT. Some of these related to organisational and managerial issues such as the transfer of the service based accountant, which had already been effected. At the time of the Section 151 report, significant steps had been taken to address these issues and the Director of Corporate & Customer Services had already facilitated the necessary changes. The most significant concern relates to contract management and budgeting, where there were serious shortcomings.

38. A special report from the Section 151 Officer is reserved for the most serious breaches of financial governance where the Section 151 Officer considers that remedial action will not be forthcoming without this step. In my discussions with the Section 151 Officer, she clearly believes that, in her professional opinion, the seriousness of the issues and the response she believed would be forthcoming from within the Council were such that it was the necessary and only step which she decided upon after the most careful consideration. There were significant risks relating to the confidential nature of a compromise agreement, and implications for the reputation of the Council.

39. I discussed with the Leader and the Chief Executive their response to the concerns which the Section 151 Officer had expressed. Both indicated to me that they were always open to addressing these issues without the need for the issue of a Section 151 special report. The Chief Executive reminded me that he had previously reorganised the senior management structure to raise the status and profile of the Section 151 Officer because of his desire and support for a more corporate approach to financial management

40. It was clear to me that there was a breakdown of communication in that the Section 151 Officer was not sufficiently assured that the necessary steps would be taken. If there had been a better working relationship between senior officers and members, an alternative approach could have achieved real progress in addressing concerns. The officers whom I have interviewed have stated that there are significant signs of improvement since early April 2007. This was a time when it was clearly possible to direct resources at addressing the financial issues in ICT by both the Director of Resources and the Director of Corporate & Customer Services.

41. I make these comments to set out the context in which a Section 151 Officer special report is issued.

42. The report contains an action plan including twenty-one recommendations. If they are fully implemented and bought into effect by the Council as a whole and acted on, then they will address and provide a robust platform for the future. In particular they will provide assurance to members for the future.

43. However I have identified a number of further steps which the Council may wish to consider. The Section 151 Officer's report has focussed on financial and contractual/procurement issues. However there are other important corporate resources, principally people, property and information, where in the past the focus has been on Directorate management of this resource. My view is that, like financial resources, these resources should be managed more corporately within a council wide strategy and to professional standards, whilst retaining service flexibility to meet local circumstances. These are my additional recommendations for you to consider:

Actions for Consideration	Rationale
1. Consider bringing all corporate resources, including ICT and HR, together within a single Directorate.	Enable the key resources of people, property, finance and information to be managed in a more integrated and consistent manner.
2. Establish a consistent strategic approach to the management and	Facilitate a more corporate approach to the use of these resources; also potential

Actions for Consideration	Rationale
deployment of corporate resources so that common standards are applied throughout the Council.	for efficiencies provided prompt access to advice for front line staff from dedicated staff aware of service needs.
3. Strengthen the role and improve the performance of the Information Policy Group by revitalising its membership with pro-active participants. (Consider making the chair a Director not the line manager of ICT).	IPG should act as the key forum for all ICT investment to ensure it is consistent with the Council's policies and rigorously appraised.
4. Enhance the Audit ICT capacity.	Given the Council's ICT programme, demands on specialist ICT audit skills could stretch existing resources.
5. Develop the role of the Audit and Corporate Governance Committee by further training for members and officers.	It is important that the members of this committee have the skills to appreciate and discharge their important responsibilities. This Committee is an essential part of the checks and balances on the member and officer functions; important markers and trends need to be picked up, especially when repeated concerns are reported.
6. Ensure that all corporate rules, standards and processes are embedded, owned and followed by members and officers throughout the organisation, having first made sure that they are workable.	They need to be widely communicated, accessible and regularly refreshed. Senior managers need to address non-compliance immediately.
7. Develop senior management team-building with the new Chief Executive giving priority to rebuilding the senior management teams.	To develop further open, trusting and corporate working and leadership.
8. Create a better resourced and more pro-active procurement function which might both anticipate important developments and encourage better compliance with the revised contract regulations.	The Council spends a significant proportion of its budget on external contracts and arrangements and these require specialist input from users and technical staff, and as a minimum to include finance and legal staff.

<p>9. To review whether the Service Level mechanisms are the appropriate way for managing corporate resources.</p>	<p>The ICT experience suggests that SLA's did not improve services or control cost. Having different mechanisms for ICT spending meant that there was lack of clarity and transparency in budgeting and in using resources.</p>
<p>10. The Council to revive and refresh the performance management process so that it is effective in highlighting issues to be addressed.</p>	<p>The financial/contracting problems in ICT were not highlighted in normal performance management processes</p>

44. Many of these proposals will require to be viewed in the light of the management approach which the new Chief Executive will bring to the Council

45. (ii) To examine both historically and currently the management capacity to exercise the necessary supervision of contracting processes and, if there is historic evidence which could provide a basis for disciplinary action, to set that out in the report for the Council to consider

46. The management of the Contractual Process need not be too complex. The existing Contract and Financial Standing Orders whilst complex, if implemented and developed, form a framework for Directors to use. There is a requirement to appoint a Contract Monitoring Officer for each Directorate, and they should report to the Director regularly on the contracts which are being let. Directors are also able to specify in what circumstances matters need to be referred to them for approval – for example a Director might wish to approve any contract above a certain figure. Directors can further manage the contracting process by their responsibility to appoint the Tender Invitation Panels and Tender Evaluation Panels.

47. The Contract Standing Orders also provide that there should be a Corporate Contracts Panel which maintains registers of contracts and details when exceptions are permitted e.g. when a tender is accepted other than the lowest or a contract is let without quotations or tenders in the special circumstances permitted. The duty of the Contracts Panel to report annually to the Corporate

Management Board is a means whereby the Board can obtain performance information on which it can act.

48. The evidence suggests that the Contracts Panel has not met for a long time, does not maintain its registers and it is unclear who are the Contract Monitoring Officers. If these arrangements had been in place and operative, they provide a vetting process involving others so that appropriate checks and balances are incorporated into the contracting process. However there is now an opportunity to refresh the system. The recently appointed Strategic Procurement and Efficiency Review Manager and the Head of Legal and Democratic Services, with the support of the Audit Services Manager, might implement a means of recording and monitoring all contractual arrangements, including those about to be entered into. This would enable the Council to identify those areas where high levels of risk are involved so that a project team of appropriate disciplines could be involved. It will also enable patterns of spending and opportunities for better value for money to be identified.

49. My terms of reference ask me to comment on whether there is historic evidence which could provide a basis for disciplinary action. I have considered these matters in the confidential part of my report as they refer to specific individuals. I do consider that there are issues where senior managers of the Council could have acted to exercise a greater degree of control over events. I suggest a course of action which might lead to a disciplinary investigation.

50.(iii) To examine the corporate support, advice and direction offered to Directors, in particular financial and audit support, and legal and contractual support received. To examine in particular the support offered in relation to those matters identified in terms (iv) and (v) below

51. The process for approving ICT projects required:

- a) A business case for a particular project to be presented to the IPG panel for approval. This is a corporate officer group with representatives from Directorates led by the Director of Corporate & Community Services.
- b) Budget approval being obtained by provision being agreed to that item by the Budget panels and then in the Council budget. Any Capital provision was approved by the Cabinet following an officer report about the annual capital programme
- c) Specific approval for projects by the Cabinet member, the Cabinet or a Director depending on the level of cost

52. Financial, legal and audit advice and support were always available to Directors on request. Legal staff issued statutory notices and assisted with contractual provisions; audit staff were consulted on who to include in the final list of tenderers; and audit and legal staff are recorded as being members of the project board for the CNU contract. However corporate support appeared to be dependant on being invited to give it and on being informed.

53. There are circumstances in which officers representing corporate/central services such as finance, personnel and legal have to make it clear to service colleagues that actions need to be undertaken in a particular way or not taken at all. For example, I would expect legal staff to require that the drafting and vetting of major contracts with high levels of expenditure should be undertaken by them; I would expect the County Treasurer's representative at evaluation meetings to state that when a critical financial information system is being installed, there was a requirement that accountancy and audit staff should be involved in its purchase and implementation. The adequacy of the financial content of reports is a subject on which the County Treasurer might insist on certain specific information being set out in order to satisfy himself that the Council's regulations had been complied with so that both he and members have a clear understanding of the spending profile.

54. In the case of both the County Treasurer and the County Secretary & Solicitor, they were not Directors, but were members of the CXMT; perhaps they and their staff did not consider that they had the status, influence or capacity to

express sufficiently and robustly some of the concerns which they clearly had at the time.

55. However there is clear evidence that in a number of matters key corporate areas, staff were excluded or prevented from exercising their role, in some cases by officers who did not feel empowered to respond to their legitimate requests.

56.(iv) To examine the strength the external moderation of contracts and in particular the contracts highlighted in the S151 Officers Special Investigation Report

57. For both contracts, the Head of ITCS employed experienced external moderators whose task was to provide validation of the procurement process and assist in the process of evaluating tenders. This was most important for an ICT acquisition where technical and performance evaluation was critical. I have focussed my assessment on the CNU contract where a specialist firm from Manchester was appointed in November 2004. They made a formal offer setting out their terms and what they would do.

58. The nominated external moderator assisted in setting up the process of evaluation and the method of scoring each proposal. The Council accepted many of his suggestions. As the list of suitable potential tenderers was refined the external moderator drew attention to four key features which he believed needed to figure in the negotiations which were to take place with the final three preferred tenderers. They related to preparing a financial model to test the proposed contract, a detailed implementation plan, a service level agreement about ongoing management and a careful check on the terms of the contract, especially in relation to exit strategies if the contract were to be ended for whatever reason.

59. By late February 2005, it was clear who the Council regarded as the preferred tenderer. The external moderator compared the services which each of the three final tenderers offered and agreed that further negotiations should be

entered into with the Council's preferred supplier. The moderator stated that the Council could take the preferred supplier forward under an accelerated negotiated procurement but re-emphasised the essential need for the negotiations to secure an agreement about the issues previously highlighted. The Council was recommended to be clear with the successful tenderer about its requirements for a managed service, the scope and boundaries of the service, (i.e. who does what), the services to be supplied, and how a managed service might operate. The main reason for these recommendations was to enable the Council to negotiate and clarify these issues whilst there was still a competitive environment i.e. the preferred tenderer did not know whether it would be successful.

60. A particular issue arose with the external moderator following a meeting on the 7th March 2005. He wrote a letter suggesting the postponement of the procurement exercise and that a meeting, including legal advisers, should take place to clarify precisely the Council's intentions and pointing out that the level of risk would not usually be considered acceptable. Some notes setting out concerns were attached to the letter.

61. This elicited a reply signed by an officer reporting to the Head of ITCS dealing specifically with the issues raised on a point by point basis, but containing a statement to the effect that the payment of invoices was being withheld pending the clarification of the matters which had been raised. A meeting held on 18th March 2005 led to the external moderator retracting the letter in full, although repeating his belief that key contractual clarifications were required.

62. I have reviewed the correspondence and the comments made by the auditor. My conclusion is that the external moderator made a professional contribution to the procurement process. This is evidenced in his advice. The fact that he expressed reservations in a manner which led to a critical and challenging response suggests that the firm was prepared to express its view clearly and robustly. The retraction of the letter related to client issues about budgetary and legal matters; but the external moderator repeated his view about the essential need to address the issues which he had previously raised and this remained

on the record for future reference. In my view it is unlikely that a professional firm would risk its reputation, even if the withholding of fees was raised. The issue which is most regrettable is that the concerns set out in the letter appear not to have been raised with or referred to either legal or financial staff within the Council. This would appear to be the obvious course of action, rather than a response which dismissed the concerns.

63. (v) To examine the formal decision making in relation to those contracts and the extent of the information made available to the relevant Cabinet Member.

64. There is concern that the reports which authorised the two acquisitions were inadequate. The Council requires reports about capital projects to contain:

- a) The estimated cost of the proposal.
- b) The phasing of capital expenditure.
- c) The proposed method of financing.
- d) The effect on the revenue estimates in subsequent years.
- e) Any additional staffing requirements.
- f) An assessment of the need for the scheme and its benefits.
- g) Alternative approaches to meeting the need.

65. The BOP was approved by the relevant Cabinet Member following a meeting with the Director of Policy & Community at which the proposal was described as having “greater functionality of more corporate value”. The meeting was informed by the memorandum, rather than a formal report, to the Cabinet Member, Chief Executive and Director outlining the benefits in terms of support for ICT services. The cost was stated to be £464k over a 5 year period based on use for ICT services only. The price was described as competitive since discounts were offered.

66. However, it was also clear from the tender that further potential implementation costs of up to £900k, or maybe less, was envisaged and as later events proved, the cost of implementation and reconciliation was substantial, and substantially exceeded the stated cost.

67. Because the cost of the project was substantial, in my view there is a greater onus on officers to provide justification for their proposals. I would expect a full report with a clear statement identifying how the project was to be financed, the potential cost in later years and the alternatives which might be available. This was missing. In my view the manner of obtaining approval was deficient.

68. The CNU was a substantial commitment involving expenditure in excess of £6m over a period of years. It is not clear from the documents exactly what the cost was. Initial provision had been made in the capital programme for 2004/5 and details of commitments for future years were outlined. By February 2005 the preferred supplier had been identified. A briefing of the Cabinet Member took place on 23rd February 2005, a Leader's Briefing note set out the issues for the 3rd March 2005, but without costings. Internal correspondence at the time identifies a revenue shortfall in 2005/6 and 2006/7 with a need for additional capital funds in later years. The Head of ITCS on 13th March 2005 gave a detailed breakdown of projected costs to the County Treasurer and on the 24th March 2005, two reports were presented to the Cabinet. One was a four page report and schedule from the Director of Policy & Community seeking approval as follows: "investment highlighted in the ongoing budget deliberations be considered for approval". This was, in practice, a commitment to entering into a contract for substantial expenditure. The second report was from the County Treasurer, seeking approval to allocate a further £500k in 2005/6 to the ongoing revenue costs required to support the investment in ICT.

69. I have reviewed the report to assess the adequacy of the information available to the Cabinet. The report itself contains no costings although there is a schedule attached to the report, setting out "Funding Requirements". I have endeavoured to place this schedule in context with the Council's previous allocations for ICT upgrades. I have not been able to reconcile the figures.

70. In summary, important information is omitted; at the very least, I would expect to see the overall contract price specified and alternative approaches more clearly spelt out, especially as there was a substantially lower tender. The reasons for

accepting a higher tender might have been spelt out, although they are recorded elsewhere. The nature of the recommendation could be much clearer in stating precisely that a contract for expenditure amounting to over £6million over several years was being authorised.

71. However it is clear that the number of discussions which had taken place, together with the accompanying report of the County Treasurer, would have reassured members that, even though the report was unclear, adequate financial provision had been made. Whilst the main responsibility for providing appropriate information falls upon professional officers, there is an onus on members to challenge officers about reports that do not provide all the necessary information to support the decision they are being asked to make. Key decisions are a matter public record and accountability. Members should be able to demonstrate that they have made a reasonable decision based on adequate information. I make some further recommendations about this later in my report; however members are not experts in technical fields such as this and I am satisfied that they relied on officer advice.

72. Therefore the report on which this commitment was entered into was not satisfactory.

73. (vi) To examine the wider support to the formal decision-making processes offered through Corporate Management Board (previously Chief Executive's Management Team) and the Information Policy Group (IPG).

74. I will deal firstly with the IPG. The group was chaired by the Director of Policy and Community and had representatives of Directorates on it. Its terms of reference were revised from time to time and its task was to assess projects and decide whether they should be undertaken, to identify risks and opportunities and to provide an oversight of proposed ICT developments, subject to the responsibility of the Head of ITCS for professional management of the service. The Chief Executive informed me that he relied on the IPG to assess and approve projects because of their specialist and technical nature.

75. The discussion on the BOP contract highlighted some of the problems faced by the group, namely late notification and inadequate information. There were clearly reservations about the project and the possible conflict with other Council wide systems, a concern which was justified by later events. However the group authorised the project to proceed.
76. The IPG was also a forum where information could be considered on ICT proposals. Members of the IPG group could report to their Directors on areas of concern, which they may have, about any developments. Given the critical nature of ICT systems which handled financial and personnel information, the representatives might have been able to alert their senior officers to concerns which they had about activity which could adversely affect corporate systems. Whether any members of the IPG did this is not clear but there is no evidence of any impact.
77. A group of this nature is important, provided it operates effectively. There is no problem about the need for such a group; the issue is how it operates and in particular how it evaluates and decides on proposals.
78. I have read the minutes and deliberations of the CXMT (now the CMB). It appears that the meetings addressed the usual range of corporate issues such as the revenue and capital budgets, the Corporate Assessment process, Performance Management systems and service impact as well as corporate issues such as ICT, property and Human Resource issues. The agenda and actions are about coordinating and informing. As a result of discussions, the Chief Executive or Board Members would work with elected members to raise matters for decision.
79. As a result of my interviews, it does appear that the CMB worked reasonably well from its formation in September 2005. It has recently changed its membership and a further change is soon to take place with the appointment of a new Chief Executive. At some point about six to eight months ago, it seems that CMB ceased to be effective and it has been described by some of its

members and observers as “fractured” or “dysfunctional”. There have been disagreements about “Herefordshire Connects” and it seems that some of these have not been resolved. It is clear to me that elected members have not been receiving consistent advice. This has led to the trust and confidence of some board members in their colleagues breaking down and inappropriate conversations taking place outside proper channels.

80. At present it would appear that Directors are concentrating on delivering the agenda in their own service area. This means that the broader implications for the council as a whole are not always recognised. That is not likely to lead to the consistent corporate leadership which is required of a Council in the 21st century. There is a pressing need for the Corporate Management Board to support the Cabinet and Council, to model the behaviour which sets the style and values for the Council and to lead the Paid Service. I make some specific suggestions about how the new Chief Executive might re-build the Corporate Management Board so that it can set the vision and priorities for the Council.

81. (vii) To advise on the merits of seeking to establish whether value for money has been obtained in respect of the contracts referred to and how this might best be achieved

82. I will deal with each of the contracts in turn. The BOP system is well respected and used by many Councils on an authority wide basis. It undoubtedly significantly improved the management information for the ICT division in a number of areas, such as procurement and the management of ICT staff.

83. However the BOP system duplicates other Council systems and required a great deal of effort to reconcile the differences. Its cost (probably around £1.4 million) is high for a small division. I do consider that the acquisition of this system was not a cost effective use of resources, mainly because it duplicated existing systems. It seems likely that there was a long term intention to utilise this system Council-wide, but this was never realized nor was the concept subjected to corporate analysis and agreement.

84. The CNU system is different. The benefits have been substantial and are well documented. Whilst there may have been some deficiencies in the process of acquisition, there appears to have been extensive evaluation utilising external moderation. It was neither the cheapest nor the most expensive option of the tenders which were evaluated. The supplier is a major and respected provider of ICT services in the public sector and during the scrutiny review of ICT in October 2006, an external evaluation by HEDRA made favourable comments about the progress which ICT has made, although there were still some challenges to be addressed.

85. However, the question that arises in relation to value for money focuses on the following issues:

- a) It is not clear whether the invitation to tender (and later the contract) was sufficiently explicit about the respective responsibilities of the Council and the contractor in view of the external moderator's comments – and thus were substantial extra costs levied?
- b) The level of external consultancy costs commissioned by ICT to assist in implementation.
- c) Unexpected events which have delayed implementation and caused delay and cost.
- d) The impact of changes in the financial profile as the contract is implemented.
- e) The fact that one tender was significantly lower than the successful tender.

86. It is not possible to say with any clarity whether the current provision represents value for money. However, there is a clear need to establish whether it is. The way forward for the Council is to carry out a benchmark exercise and to reference test the current provision. Such an exercise will specify what the Council is paying for and how much it costs compared to others. If this demonstrates poor performance or excessive cost, then the Council has the option to negotiate with the present contractor with a view to making changes in the contract, or if necessary, negotiating an exit strategy. This is an area where a fruitful dialogue with the Audit Commission, working with the Council to

support an exercise of this nature, would provide a basis for future negotiation and reassurance about the level of cost.

Part 3 – Next Steps

87. My terms of reference invite me to make any further recommendations. I have outlined earlier in this report features which I believe have contributed to the current situation. I would like in this section to draw the threads of this report together into a sensible set of actions for you to take.

88. I have already set out some important features of the way the Council has worked, namely:

- a) A high level of freedom given to directors in such matters as the use of support services and managing contracts.
- b) Trust and confidence by members and amongst senior colleagues that officers will perform to a high level.
- c) A culture of consensus to achieve results with which all can agree.
- d) A reactive approach and style amongst corporate services such as Finance, Legal and Personnel.
- e) A strong policy and procedural base but one which is not fully followed or understood.
- f) A performance management system which is not universally applied or insisted upon.
- g) A lack of discipline in respecting and abiding by the Council's values.

89. Some of these features have served you well in the past, but others have not assisted when a different style of working has been brought to the Council. For example, because performance management is not fully embedded and Directorates operate with considerable freedom, there is not always the full awareness that is desirable when important decisions are being taken which affect the Council as a whole. This was compounded by a willingness at both member and officer level to trust a senior manager to perform to the standards which they would follow themselves.

90. However, these events provide an opportunity for the Council to address and change its approach for the future. Firstly, it is imperative for the Council to deal

with any issues of poor performance and to change any procedures to eliminate weaknesses as quickly as possible. Ongoing investigations and slowness to resolve outstanding concerns will be debilitating and unhelpful to the vast majority of staff whose sole purpose is to provide efficient services to their users. There is little value in constantly raking over the coals with no sense of where it is leading to.

91. If the Council proceeds with a piecemeal approach to tackle the issues arising from this experience, the Council will not have learnt or benefited to the fullest extent. The Council has made considerable progress since its formation 10 years ago. That progress was being maintained until the setback caused by recent events; the people of Herefordshire and the staff of the Council deserve to have strong leadership in order to meet the needs of the community into the future.

92. Members of the Council will need to provide strong leadership, especially from the executive and group leaders. The newly appointed Chief Executive and the members of the Corporate Management Board will need time to re-form and set the direction and priorities for the Council in the future. There are a number of ways in which the Council can regain the momentum at both member and officer level; I have set them out in the body of the report and would summarise them as follows, namely:

- (a) To take the steps set out in the Section 151 Officer's report and the additional recommendations contained in this report within 6 months to address any deficiencies and to conclude any outstanding matters.
- (b) To give clear and unequivocal support to the new Chief Executive at member and senior officer level so that he can assess what needs to be done now and for the future and put in hand a coordinated programme to do it.
- (c) To rebuild the corporate management board so that it can reflect on how it came to be fractured and dysfunctional and decide how best to become an integrated team which provides the leadership for and earns the

respect of the officers of Herefordshire Council so that the values to which Herefordshire aspires are reflected in its actions.

- (d) To re-establish the trust and confidence between members and officers and officers and officers based on a different approach which encourages appropriate challenge, resolves issues with a way forward which is supported by all and creates the discipline to follow through and abide by decisions which are taken.
- (e) To review and change if appropriate, the Council's procedures and protocols with a 12 month programme so that they are realistic and understood by all officers of the Council and then embed them. If some procedures are no longer relevant then they can be abandoned.
- (f) To create a robust performance management culture, underpinned by agreed procedures of what staff are expected to do and if they do not do them there is a discipline which holds them to account.
- (g) To request the new Chief Executive to review the role of the corporate resource provision, namely, finance, people, property, ICT and Legal & Democratic Services to decide how professional requirements and standards should be met, how standards should be maintained throughout the Council and how flexibility and immediate access by Directorates and front line staff can be available so that early decisions can be made for the benefit of service delivery.

93. However there is one further proposal which I would make. You are also a newly elected Council with a recent change in political control. Because of the political nature of the Council, you have a past history of good cross-party co-operation. These are new and different times for councillors; new members have taken Cabinet office; opposition members have a new role in challenging the Executive; the role in policy formulation and performance management for members is more significant; members are expected to provide strong leadership and to know how well the Council is performing.

94. There is a need for members to reflect on whether they have the support and skills which they need for the new agenda; it may be appropriate to commission further work on member support and development from one of the Local Government Association bodies.
95. Finally, it is important for the Council to bear in mind that these difficulties represent a problem in one part of the Council. It is important to maintain a sense of proportion and not to allow events in one division of one Directorate, however serious, to be reflective of a situation throughout the Council. My perception is that the Council is performing well in most of its activities, although this is not consistent. A measured co-coordinated and thoughtful response, without over-reaction, is the appropriate way forward e.g. changing the rules without any buy in will merely replicate the situation of three years ago.
96. The work which was undertaken in modernising the voice and data networks was essential and recognised as such by the Council if it was to achieve its aspiration of being an efficient and responsive modern authority. That drive to modernise, to become more efficient and to change working practices to align with best practice nationally, is not an agenda which you should avoid. When problems arise such as those you have encountered, it is easy to back away from actions which carry inherent risk. The Council would be wise not to become overly cautious by setting up stifling procedures which will inhibit innovation, or reduce the flexibility of Heads of Service, middle managers or front line staff from being able to make quick and effective decisions in line with approved policy. The task is to be risk aware, not risk averse. That is about people skills, not manuals of procedures which gather dust on shelves.
97. I hope this report will provide a foundation on which you are able to build. It is easy to forget in the concerns and reverberations which have led to this report that the task is to make sure that users of services receive an excellent quality response at an economic cost. For that to happen it will be important to re-establish the respect and reputation for your leading managers by demonstrating that you are able to move out of these difficulties strengthened by the way you have addressed them.

Ian Crookall

9 November 2007

Part 4 Executive Summary

I was commissioned to review the financial/contractual governance arrangements within the ICT division, particularly in relation to the entering into of contracts for a major Council wide computer system and system for supporting ICT management.

The report deals with a specific area of service and I saw no evidence that some of the problems described were generic to the Council.

These are my principal findings:-

- There was poor financial governance in ICT
- There were major deficiencies in the contracting process
- There was poor management of both organisational and individual performance
- There was a lack of challenge in relation to major proposals
- There was extensive delegation to Directorates when tighter controls in some corporate areas were needed
- The Council's procedures and policies are not embedded

The result was that there were inadequate checks and balance in place when a different style and approach was introduced into the Council. This led to a breakdown in communications and strained personal relationships.

My recommendations are:-

- Procedures and practices should be developed, and most importantly, embedded throughout the Council
- The Council should consider organisational changes in relation to corporate services and the way they are delivered
- An exercise should be undertaken to establish whether the community network contract represents value for money
- Support for Members' roles should be developed by an external facilitator
- There is an urgent need for the CMB to become more effective and fit for purpose.
- The new Chief Executive should be supported and given time to re-build the management teams, re-establish trust and confidence and deliver on these recommendations.

In addition, in the confidential report I have made a recommendation that a disciplinary investigation should be instigated in relation to the performance issues raised within the confidential report.

For ease of reference I attach a schedule which deals with each term of reference summarises the key findings and contains actions for consideration.

The most important consideration is for the Council to address promptly the immediate issues arising from this report. Slowness in resolving outstanding concerns will be

debilitating and unhelpful. A piecemeal approach without a sense of direction to where it is leading will not be productive. Then as quickly as possible all the Council should work with the new Chief Executive to make the Council at Senior Management level fit for purpose in order to re-establish the momentum to maintain and improve services for the people of Herefordshire

Ian Crookall

9 November 2007

	Term of Reference	Summary Key Findings	Actions for Consideration
i.	<p>To examine the evidential base on which the conclusions set out in the Section 151 Officer's report are based to enable the Council to reach a conclusion as to what, if any, further action needs to be taken in relation to the report beyond the remedial steps contained in the reports themselves, which steps have been endorsed by the Corporate Management Board and set out any remedial action, if any, or additional recommendations for consideration by the Corporate Management Board and/or the Cabinet.</p>	<ul style="list-style-type: none"> • There were serious shortcomings in the financial and contractual management that then existed within ICT. • There are signs of significant improvements being made in respect of these shortcomings since actions to address them began in April 2007. • There was a breakdown in communication resulting in the Section 151 Officer not feeling sufficiently assured that the necessary steps would be taken. • Important corporate resources need to be corporately managed within a council wide strategy, and to professional standards, whilst retaining service flexibility to meet local circumstances. 	<ul style="list-style-type: none"> a) Consider bringing together the key resources of people, property, finance and information into a single directorate. b) Enhance the Audit specialist ICT capacity. c) Develop the role of Audit & Corporate Governance Committee through further member training. d) Commission a report (from one of the local government bodies) on how elected members' support and development needs can be more adequately met. e) Ensure all corporate rules, standards and processes are embedded, owned and followed by members and officers throughout the organisation, having first made sure they are workable. f) Create a better resourced and more proactive procurement function which might both anticipate important developments and encourage better compliance with the revised contract regulations. g) Review whether the service level mechanisms are the appropriate way for managing corporate resources. h) Revive and refresh the performance management process so that it is effective in highlighting issues to be

	Term of Reference	Summary Key Findings	Actions for Consideration
ii.	To examine both historically and currently the management capacity to exercise the necessary supervision of contracting processes and, if there is historic evidence which could provide a basis for disciplinary action, to set that out in the report for the Council to consider.	<ul style="list-style-type: none"> • The existing contract standing orders, if implemented after amendment, provide a framework for Directors to use. • There is evidence to suggest that the corporate checks and balances are not operational. • There is evidence to suggest some errors (of omission rather than commission) took place. 	<p>addressed.</p> <p>a) The Head of Legal & Democratic Services and the Strategic Procurement and Efficiency Review Manager review and refresh the system to ensure it is understood and adhered to, and a framework is in place to ensure appropriate disciplines are involved.</p> <p>b) The Head of Legal & Democratic Services, with the Interim Head of Human Resources institute a disciplinary investigation to address the performance issues to which reference is made in the confidential section of this report.</p>
iii.	To examine the corporate support, advice and direction offered to the Directors, in particular financial and audit support, and legal and contractual support received. To examine in particular the support offered in relation to those matters identified in paragraphs (iv) and (v) below.	<ul style="list-style-type: none"> • Corporate support appeared to be dependent on being invited to give it, and on being informed. • Concerns were not always expressed sufficiently and robustly. 	<p>a) Request the new Chief Executive to review the role of corporate resource provision to decide how professional standards and requirements should be met, how standards should be maintained throughout the Council, and how flexibility and immediate access by directorates and front line staff can be available so that early decisions can be made for the benefit of service delivery.</p> <p>b) Review and change, if appropriate, the Council's procedures and protocols</p>

	Term of Reference	Summary Key Findings	Actions for Consideration
			<p>within a 12 month programme so that they are realistic and understood by all officers of the Council, and then embed them. If some procedures are no longer relevant they can be abandoned.</p>
iv.	<p>To examine the strength and independence of the external moderation of contracts and in particular the contracts highlighted in the S151 Officer's Special Investigation Report.</p>	<p>CNU</p> <ul style="list-style-type: none"> The external moderator for the CNU project made a professional contribution to the procurement process. Advice in respect of the concerns raised by the external moderator did not appear to be sought from the relevant corporate support staff within the council. 	<p>The value of external moderation is recognised and appropriate advice should be sought at all times.</p>
v.	<p>To examine the formal decision making in relation to those contracts and the extent of the information made available to the relevant Cabinet Member.</p>	<p>BOP</p> <ul style="list-style-type: none"> The manner of obtaining approval was deficient. Insufficient financial information was provided – in particular in respect of future financing and costs. Insufficient assessment of alternative options was provided. 	<p>See recommendation (ii) b above.</p>

	Term of Reference	Summary Key Findings	Actions for Consideration
		<p>CNU</p> <ul style="list-style-type: none"> • The report on which this commitment was entered into was not satisfactory. • Insufficient information was provided about costs and funding requirements. • Insufficient information on tender options appraisals was provided in the report, although the reasons for rejecting the lowest tender are recorded elsewhere. • Members would have been reassured by the number of discussions that had taken place and the accompanying report by the County Treasurer that adequate financial provision had been made. 	<p>Key decisions are a matter of public record and accountability. Members should be able to demonstrate that they have made a reasonable decision based on adequate information and if this is not forthcoming, to be empowered to ask for it, even if this means delay.</p>

	Term of Reference	Summary Key Findings	Actions for Consideration
vi.	To examine the wider support to the formal decision-making processes offered through the Corporate Management Board -previously Chief Executive's Management Team (CMB) and the Information Policy Group (IPG).	<p>CMB</p> <ul style="list-style-type: none"> • Worked reasonably well from formation in September 2005. • During the past year it has ceased to be effective. • Members have not been receiving consistent advice. • Trust and confidence between some CMB members has broken down. • Inappropriate conversations are taking place outside proper channels. • Directors are concentrating on delivering the agenda in their own service areas. 	<ul style="list-style-type: none"> a) Give clear and unequivocal support to the new Chief Executive at elected member and senior officer level, so that he can assess what needs to be done now and for the future, and put in hand a co-ordinated programme to do it. b) Develop senior management team-building with the new Chief Executive giving priority to rebuilding the senior management teams. c) Rebuild the CMB following reflection on how it came to be fractured and dysfunctional, and decide how best to become an integrated team which provides the leadership for and earns the respect of the officers of Herefordshire Council. d) Re-establish the trust and confidence between members and officers, and between officers and officers, based on a different approach which encourages appropriate challenge, resolves issues with a way forward that is supported by all, and creates the discipline to follow through and abide by decisions taken. e) Create a robust performance management culture underpinned by agreed procedures of what staff are expected to do; and if they do not do them there is a discipline which holds them to account. f) Ensure there is no over-reaction; that a sense of proportion is maintained and the Council becomes risk aware rather than risk averse.

	Term of Reference	Summary Key Findings	Actions for Consideration
		<p>IPG</p> <ul style="list-style-type: none"> • The role of the group is necessary. • There is an issue about how it operates and in particular how it evaluates and decides on proposals. 	<ul style="list-style-type: none"> a) Ensure IPG is chaired by a service Director. b) Review the membership of the IPG. c) Have clear guidelines for the evaluation and decision-making processes within the group.
vii.	<p>To advise on the merits of seeking to establish whether value for money has been obtained in respect of the contracts referred to and how this might best be achieved.</p>	<p>Back Office Project</p> <ul style="list-style-type: none"> • Duplication with other council systems • Degree of effort required to reconcile with other key systems • High cost for size of service area covered • Inadequate degree of corporate analysis re extension of utilisation across the Council • The BOP was not a cost effective use of resources. 	<p>To note the findings.</p>

	Term of Reference	Summary Key Findings	Actions for Consideration
		<p>Community Network Upgrade</p> <ul style="list-style-type: none"> • Substantial and well documented benefits. • External evaluation acknowledges progress made. • Some questions arise in relation to value for money namely: the clarity of the ITT and contract regarding respective responsibilities, the selection of a tender other than the lowest, external consultancy costs incurred for implementation, unexpected events and changes to requirements and the impact of changes in the financial profile. 	<p>The Council should establish whether current provision represents value for money. This should be achieved, in liaison with the Audit Commission, through the completion of a further benchmarking exercise and reference testing current provision.</p>

FINANCIAL GOVERNANCE REPORT TERMS OF REFERENCE FOR REVIEW REPORT AND ADVICE

These Terms of Reference are drawn up by the Monitoring Officer of Herefordshire Council to enable the Council to secure independent advice in relation to matters raised in a report issued by the Director of Resources as Section 151 Officer dated 13th September, 2007 and a Special Investigation Report dated 3rd September, 2007 (copies of both documents enclosed herewith).

The Council seeks advice on the following matters to enable the Council to move forward and to identify any potential areas of concern:

- (i) To examine the evidential base (report enclosed) on which the conclusions set out in the Section 151 Officer 's report are based to enable the Council to reach a conclusion as to what, if any, further action needs to be taken in relation to the report beyond the remedial steps contained in the reports themselves, which steps have been endorsed by the Corporate Management Board and set out any additional remedial action, if any, or additional recommendations for consideration by the Corporate Management Board and/or the Cabinet.
- (ii) To examine both historically and currently the management capacity to exercise the necessary supervision of contracting processes and, if there is historic evidence which would provide a basis for potential disciplinary action to set that out in the report for the Council to consider.
- (iii) To examine the corporate support, advice and direction offered to Directors, in particular financial and audit support, and legal and contractual support received. To examine In particular the support offered in relation to those matters identified in paragraphs (iv) and (v) below.
- (iv) To examine the strength and independence of the external moderation of contracts and in particular the contracts highlighted in the S151 Officers Special Investigation Report.
- (v) To examine the formal decision making in relation to those contracts and the extent of the information made available to the relevant Cabinet Member.
- (vi) To examine the wider support to the formal decision-making processes offered through Corporate Management Board (previously Chief Executive's Management Team) and the Information Policy Group (IPG).

- (vii) To advise on the merits of seeking to establish whether value for money has been obtained in respect of the contracts referred to and how this might best be achieved.

To that end you are asked within the scope of these Terms of Reference

- (a) To examine relevant documentary evidence held by the Council.
- (b) To interview relevant members of staff and Members of the Council.
- (c) To contact outside parties who advised on the processes as may be appropriate.
- (d) In consultation with the Head of Legal and Democratic Services and within financial limits to be agreed by the Head of Legal and Democratic Services to engage specialist finance or ICT expertise if that is required.

To review and keep under review the terms of reference and if any amendments or additions are required to refer to Head of Legal and Democratic Services and the Leader of the Council

Alan McLaughlin,
Head of Legal and Democratic Services

APPENDIX 2

It is essential that a short period of time is allowed for reflection on the cultural issues identified during the investigation to enable a shared understanding of those issues and to establish collective support for the way forward. This is particularly so given the recent appointment of the new Chief Executive. However it is also vital that prompt action is taken to address the immediate issues arising from the investigation report. The following action plan has been developed taking both of these requirements into consideration.

	Action	Lead	By When
1.	The disciplinary investigation by instituted.	Head of Legal & Democratic Services/Interim Head of Human Resources	Immediate
2.	Member Development Policy Group be asked to give consideration to the suggested actions in respect of member training, support and development, and bring forward an action plan to Cabinet.	Head of Legal & Democratic Services	End February 2008
3.	Consideration be given to the suggested actions in respect of: <ul style="list-style-type: none"> • The structure for management and effective deployment of the key corporate resources. • The development and team building of the senior management teams of the council. 	The new Chief Executive	End February 2008
4.	Consideration be given to how best to re-establish trust and confidence between members and officers, and between officers and officers, based on an approach which encourages appropriate challenge, resolves issues with a way forward that is supported by all, and creates the discipline to follow through and abide by decisions taken.	The new Chief Executive	End January 2008
5.	Consideration be given to the suggested actions in respect of: <ul style="list-style-type: none"> • The need for additional specialist audit ICT resource • Proposals for strengthening the strategic procurement function • Proposals for appropriate financing models for corporate services and bring forward an action plan to CMB.	Director of Resources	End February 2008

APPENDIX 2

	Action	Lead	By When
6.	The relevant professional officers (Monitoring Officer, Section 151 Officer, Interim Head of Human Resources) be asked to lead reviews of the Council's procedures and protocols, and the corporate rules, standards and processes to ensure they are fit for purpose, proportionate and workable. Review programmes to be reported to CMB.	The new Chief Executive	End December 2007
7.	Consideration be given to the suggested actions in respect of refreshing and embedding an effective performance management culture, and an action plan brought forward to CMB.	Interim Head of Human Resources	End February 2008
8.	CMB be asked to review the membership/chairmanship of the Information Policy Group (IPG).	The new Chief Executive	December 2007
9.	The refreshed IPG be asked to consider the suggested actions in respect of group governance arrangements and to report back on action taken to CMB.	The new Chief Executive	End February 2008
10.	Consideration be given to the suggested action in respect of establishing value for money in relation to the community network, and an action plan taken to CMB. (NB Action to progress a value for money study to be undertaken by SOCITM has now been agreed with the Director of Resources)	Interim Head of Information, Technology and Customer Services.	End November 2007
11.	Clear guidelines be established and embedded in respect of close personal line management relationships.	Interim Head of Human Resources	End December 2007
12.	Consideration be given to the suggested actions in relation to officer training and development needs, and an action plan be brought to CMB.	Interim Head of Human Resources	End February 2008

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